

FYI Sales 55

Sales Tax Requirements for Flea Market and Swap Meet Operators

GENERAL INFORMATION

If you are the operator of a flea market or similar facility, you must obtain a Colorado sales tax license and must remit to the Department of Revenue the sales tax charged on items sold by unlicensed flea market vendors. [§39-26-103, C.R.S.]

Apply for a state sales tax license online at www.colorado.gov/coloradobusinessexpress and receive your Colorado Account Number (CAN) license number immediately. If you cannot apply online, you may complete and mail in the Colorado Sales Tax/Withholding Account Application (CR 0100). You will receive your license and account number by mail. Allow four to six weeks for processing. Also available is the Sales and Use Tax Reference Guide (DR 0099), which will instruct you when and how to file your sales tax return.

At the start of each sales day, you are required to give all licensed and unlicensed vendors a remittance envelope and inform the vendors what the applicable sales tax rate is for the location.

Colorado sales tax and, if applicable, state-collected city, county and Regional Transportation District/Cultural & Scientific Facilities District (RTD/CD) and Rural Transportation Authority (RTA) sales taxes must be collected in addition to any other applicable special district taxes. These sales taxes apply to all sales of tangible personal property. If your market is located in a home-rule city such as Denver, you must contact city officials directly about applicable city taxes and requirements that may apply.

For detailed information about local sales rates in cities and counties where the state collects the tax, see Revenue Online, www.Colorado.gov/RevenueOnline, click the Business button, and see the listing under Business Services. Or refer to the publication Colorado Sales/Use Tax Rates (DR 1002).

At the end of each sales day, you must collect from the vendors the envelopes plus the sales tax that was collected by unlicensed vendors. Licensed vendors must remit the tax they collect directly to the Department of Revenue.

It is your responsibility to keep a record of the serial numbers of the envelopes used by all vendors. The record shall contain the name and address of the vendor, social security number, date, a vendor's sales tax license number (if applicable), gross sales and the amount of sales tax collected. All of the above information must be maintained for three years and, during that time, be available for inspection upon request by the Department of Revenue.

As the operator, you may order the remittance envelopes free of charge from the Colorado Department of Revenue Forms Section, 1375 Sherman St., Room 136, Denver, CO 80261; (303) 866-5617 or you may print your own envelopes provided all the specifications are followed.

UNLICENSED VENDORS

If you are selling items that are your personal possessions, and do not sell or trade more than five weekends in a calendar year, you are not required to have a sales tax license. If, however, you are selling items which you purchased for resale, or you sell or trade more than five weekends in a calendar year, you must have a sales tax license. A weekend is defined as Friday through Monday. If you are required to have a license, the section below titled, "Licensed Vendors," applies to you.

If you are not required to have a license, you should collect and remit the tax to the flea market or swap meet operator. Unlicensed vendors are considered to be selling at retail under the license issued to the operator. Should a customer ask to see your sales tax license, he/she should be directed to inspect the license displayed by the facility or event operator.

You should receive a remittance envelope from the operator at the beginning of each day of sales. Complete the requested information on the envelope.

As you make your sales, collect the required amount of sales tax. The operator will tell you the applicable tax rate. At the end of the sales day, return the envelope to the operator with the amount of tax that you collected.

LICENSED VENDORS

If you are selling tangible personal property that you purchased for resale, you are required to obtain a sales tax license from the Colorado Department of Revenue. If you already have a sales tax license for your primary business location, you must still obtain a separate sales tax license if you plan to make separate sales at a flea market or similar event. You must have a sales tax license for each location where you are selling at retail.

The type of license you need depends on whether you plan on selling items at a market once, or all year. If you plan on selling at a market for only a day, you should obtain a single event license by filing a Vendor Special Event License Application for Single or Multi-Events (DR 0589). [§39-26-103(9)(b.5)(III), C.R.S.] If you plan on selling on a regular basis, you will need a standard sales tax license.

Failure to obtain a license is a class 3 misdemeanor and may result in the imposition of penalties. If you plan on selling only seasonally, you may request to file your sales tax return on a seasonal basis.

Apply for a state sales tax license online at www.colorado.gov/coloradobusinessexpress and receive your Colorado Account Number (CAN) license number immediately. If you cannot apply online, you may complete and mail in the Colorado Sales Tax/Withholding Account Application (CR 0100). You will receive your license and account number by mail. Allow four to six weeks for processing. Also available is the Sales and Use Tax Reference Guide (DR 0099), which will instruct you when and how to file your sales tax return. Even though you are a licensed vendor, the flea market or swap meet operator will give you a remittance envelope at the beginning of each sales day. Complete the required information on the envelope and provide the operator with your sales tax license number. The operator will tell you the applicable tax rate for that location. You must collect the tax on any sale you make.

At the end of the sales day, return the envelope to the operator, but **do not** remit the sales tax you collected to the operator. Remit the tax directly to the Department of Revenue.